

Message Text

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ACTION AF-10

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FM AMEMBASSY ADDIS ABABA
TO SECSTATE WASHDC 9178

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E.O. 11652: N/A
TAGS: EINV, ET
SUBJ: KALAMAZOO SPICE EXTRACTION COMPANY COMPENSATION CLAIM

REF: A) STATE 187605, B) ADDIS ABABA 3136

SUMMARY. EMBASSY HAS SEVERAL SUGGESTIONS ON TEXT OF KALAMAZOO SPICE COMPANY'S PROPOSED ARRANGEMENT TO SETTLE COMPENSATION CLAIM. END SUMMARY.

1. KALSEC LETTER PREPARED BY ITS ATTORNEY APPEARS TO SAFEGUARD COMPANY FROM CLAIMS BY ANY ETHIOPIAN GOVERNMENT AGENCY. BUT CONCEPT OF EMBASSY'S DRAFT OF AGREEMENT BETWEEN KALSEC AND PMGSE WAS THAT IT WOULD RESULT IN THE ELIMINATION OF A CLAIM RATHER THAN BE THE SETTLEMENT OF A CLAIM, THUS ALLOWING PMGSE TO ASSERT THAT NO PRECEDENT HAD BEEN ESTABLISHED.
2. EMBASSY CONCEPT PROVIDED FOR AGREEMENT BETWEEN KALSEC AND PMGSE RATHER THAN WITH COMPENSATION COMMISSION. BELIEVE THIS IS IMPORTANT ALSO IN ORDER THAT PMGSE MAY CLAIM THAT THERE HAS BEEN NO PRECEDENT ESTABLISHED BUT RATHER THAT THE SPECIAL CIRCUMSTANCES WITH REGARD TO KALSEC LED TO AGREEMENT.
3. EMBASSY APPRECIATES THAT KALSEC WISHES ATTEMPT PRESERVE

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ITS INTEREST IN CERTAIN SHARES OF ESESCO WHICH WERE NOT NATIONALIZED, BUT PMGSE HAS TO DATE NOT DEFINED WHAT WAS MEANT BY "MAJORITY CONTROL" IN ITS NATIONALIZATION DECREE. IT IS NOT CLEAR WHETHER PMGSE WILL TAKE 51 PERCENT OF ALL THE SHARES OR, FOR EXAMPLE, 64 PERCENT OF KALSEC'S 80 PERCENT INTEREST, THUS GIVING IT EFFECTIVE 51 PERCENT CONTROL OF ESESCO. RECOGNIZE THAT KALSEC HAS RAISED THIS ISSUE

IN ITS LETTER TO COMPENSATION COMMISSION BUT BELIEVE THAT COMPANY SHOULD BE PREPARED TO YIELD ON THIS ISSUE IF IT WISHES TO ACHIEVE AN AGREEMENT. EMBASSY SOUGHT TO PRESERVE THE EVENTUAL POSSIBILITY OF KALSEC RECOVERING ITS SHARES BY REFERRING TO "NATIONALIZATION OF ITS INTEREST IN ITS FORMER SUBSIDIARY." OBVIOUSLY, KALSEC WOULD NOT FILE ANY CLAIM FOR COMPENSATION FOR SHARES WHICH IT STILL OWNED OR TO WHICH IT HAD A RIGHT. EMBASSY CONCEPT WAS TO LEAVE RESOLUTION OF THIS MATTER TO A LATER DATE AND/OR A LATER GOVERNMENT. BY WITHDRAWING ITS EXISTING CLAIM, THE EMBASSY CONSIDERED THAT KALSEC WAS NOT SURRENDERING ANY RIGHT WHICH IT HAD UNDER EXISTING ETHIOPIAN LAW, E.3., NATIONALIZATION DECREE.

4. IT IS UNCLEAR WHETHER PMGSE WILL EVER SETTLE BULK OF COMPENSATION CLAIMS, AND CLAIMS BY CORPORATIONS AND INDIVIDUALS OF OTHER NATIONS VASTLY EXCEED TOTAL AMOUNT OF VALID AMERICAN CLAIMS. EMBASSY'S OBJECTIVE WAS TO ACHIEVE PRAGMATIC ARRANGEMENT ACCEPTABLE TO KALSEC WHICH MET ITS ESSENTIAL REQUIREMENTS AND IN EFFECT SETTLED ITS CLAIM. AS EMBASSY UNDERSTOOD IT, KALSEC WAS INTERESTED IN RESUMING BUSINESS AS USUAL AND FORESAW CONSIDERABLE POTENTIAL FOR PROFIT FROM SUCH RESUMPTION, BUT NEEDED ASSURANCE THAT IT WOULD NOT ENCOUNTER ANY FINANCIAL CLAIMS BY ANY ENTITY IN ETHIOPIA WHICH WOULD IMPAIR ITS FUTURE COMMERCIAL TRANSACTIONS AND FUTURE PROFITABILITY.

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5. REQUEST DEPARTMENT CONSULT KALSEC AND/OR ITS ATTORNEYS ON ABOVE AND ADVISE.

CHAPIN

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Message Attributes

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Draft Date: 27 jul 1978
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Decaption Note:
Disposition Action: RELEASED
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Disposition Case Number: n/a
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